

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BENTHOS MASTER FUND, LTD.,

Petitioner,

-against-

AARON ETRA,

Respondent.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/14/22

20-CV-3384 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS the parties appeared on July 13, 2022, in response to an order to show cause why Respondent Aaron Etra should not be held in civil contempt for failure to comply with orders dated May 16, 2022, June 21, 2022, and July 5, 2022, *see* Dkts. 108, 113, 116 (hereafter “the Orders”), *see also* Order to Show Cause, Dkt. 126;

WHEREAS after hearing from the parties, and having found that Respondent was in civil contempt for failure to produce all documents as required by the Orders, the Court remanded Respondent into the custody of the U.S. Marshals;

WHEREAS the Court appointed the Federal Defenders to represent Respondent for the limited purpose of litigating whether, to coerce compliance with the Orders, he should remain in custody until he purged his contempt; and

WHEREAS the Court held a second conference with the parties at 3:00 p.m., on July 13, 2022, *see* Order, Dkt. 128, and ordered Respondent released from the custody of the U.S. Marshals subject to his commitment to comply with the following schedule for producing documents required to be produced by the Orders;

IT IS HEREBY ORDERED that, not later than **Friday, July 15, 2022, at 6:00 p.m.**, Respondent must produce to Petitioner all documents that he has heretofore withheld as

“privileged” that are responsive to Petitioner’s previously-served subpoena *duces tecum*. This includes, as discussed at the hearings on July 13, 2022:

- all escrow agent agreements as to which Respondent is or was a party, whether the escrow agreement is still in effect or not, in effect from August 1, 2018 to the present;
- monthly statements for all bank accounts that were previously withheld as “privileged,” including all Interest on Lawyer Accounts (“IOLA” accounts), whether in Respondent’s name individually, jointly, in trust, as custodian, as nominee, or as a beneficiary, individually or with other persons or entities, from August 1, 2018 until the present.

IT IS FURTHER ORDERED that, not later than **Friday, July 15, 2022, at 6:00 p.m.**, Mr. Etra must produce to the Petitioner all monthly statements for Respondent’s account at Piermont Bank, which is referenced in the Piermont Bank account documents produced on July 11, 2022 as “DDA 2060.” *See, e.g.*, Dkt. 129 at 67 (noting transfers to and from “DDA 2060”).

IT IS FURTHER ORDERED that, not later than **Friday, July 15, 2022, at 6:00 p.m.**, Respondent must file a sworn statement, executed under penalty of perjury, certifying that the documents ordered to be produced in the two paragraphs above were produced as required.

IT IS FURTHER ORDERED that Respondent must produce the following items not later than **Tuesday, July 18, 2022, at 6:00 p.m.**:

- Any other banking record including, but not limited to, credit applications and records and statements for any checking, savings, money market, certificate of deposit, investments, bonds, retirement accounts, safety deposit boxes or any other financial assets maintained with any banking or financial firm or institution,

whether in Respondent's name individually, jointly, in trust, as custodian, as nominee, as a beneficiary or in conjunction with any other person or persons. For the avoidance of any doubt, the records that are required to be produced pursuant to this paragraph include monthly statements for **all** of Respondent's bank accounts and brokerage accounts that have not previously been produced that were open at any point between August 1, 2018 and the present. Among the records that must be produced in response to this bullet are monthly bank statements for the account into which Respondent's social security checks were deposited prior to the time such payments began to be deposited into his account at Piermont Bank.

- All monthly statements for the HSBC bank account ending in x9990 from August 1, 2018 to the present, or, if that account has been closed, statements from August 1, 2018, through the closing, *see* Order, Dkt. 126 ¶ 5;
- All monthly statements for the HSBC bank account ending in x6096 from August 1, 2018 to the present, or, if that account has been closed, statements from August 1, 2018, through the closing, *see id.*;
- All monthly statements for the HSBC bank account ending in x6100 from August 1, 2018 to the present, or, if that account has been closed, statements from August 1, 2018, through the closing, *see id.*;
- All monthly statements for the HSBC bank account ending in x7955 from August 1, 2018 to the present, or, if that account has been closed, statements from August 1, 2018, through the closing, *see id.*;

- All monthly statements for the HSBC bank account ending in x6401 from August 1, 2018 to the present, or, if that account has been closed, statements from August 1, 2018, through the closing, *see id.*;
- All monthly statements for the HSBC bank account ending in x6410 from August 1, 2018 to the present, or, if that account has been closed, statements from August 1, 2018, through the closing, *see id.*;
- All monthly statements for the HSBC bank account ending in x6509 from August 1, 2018 to the present, or, if that account has been closed, statements from August 1, 2018, through the closing, *see id.*;
- All monthly statements for the Uni-Credit account from August 1, 2018 to the present, or, if that account has been closed, statements from August 1, 2018, through the closing, *see id.*;
- All monthly statements for the SberBank bank account (for which a two-page untranslated document was previously provided, *see* Dkt. 86 at 5–6) from August 1, 2018 to present, or, if that account has been closed, statements from August 1, 2018, through the closing, *see id.*;
- The closing statements for Citibank accounts ending in x0330, x0669, x1370, x4852, and x8687, *see id.* ¶ 9; and
- A notarized declaration, submitted under penalty of perjury, attesting to the fact that Mr. Etra has no other open bank or brokerage account that he has not disclosed to Petitioner.

IT IS FURTHER ORDERED that, not later than **Tuesday, July 19, 2022, at 6:00 p.m.**, Respondent must file a sworn statement, executed under penalty of perjury, certifying that the documents ordered to be produced in the paragraphs above were produced as required.

IT IS FURTHER ORDERED that the parties must appear for a status conference on **Thursday, July 28, 2022, at 10:30 a.m. in Courtroom 443**, Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York, NY 10007.

IT IS FURTHER ORDERED that not later than **Tuesday, July 26, 2022**, Petitioner must submit a letter to the Court setting forth any continued deficiencies in Respondent's productions as of that date.

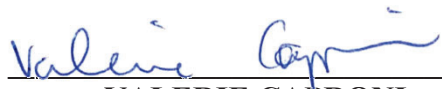
IT IS FURTHER ORDERED that the financial sanctions imposed on Respondent for his failure to comply with the Orders, *see* Dkt. 126 at 4, shall continue to accrue until Respondent has complied fully with the Orders.

IT IS FURTHER ORDERED that if Respondent does not comply fully with this Order, he must be prepared to show cause at the conference on **July 28, 2022** why the Court should not find that financial penalties are not sufficient to coerce compliance with this Court's Orders and that he should be remanded into custody as a coercive sanction until he fully complies with the Orders.

IT IS FURTHER ORDERED that the Clerk of Court is respectfully directed to mail a copy of this order to Respondent.

SO ORDERED.

Date: July 14, 2022
New York, New York


VALERIE CAPRONI
United States District Judge